



[6705-01-P]

FARM CREDIT ADMINISTRATION

12 CFR Part 620

RIN 3052-AD02

Disclosure to Shareholders; Pension Benefit Disclosures

AGENCY: Farm Credit Administration.

ACTION: Proposed rule.

SUMMARY: The Farm Credit Administration (FCA, we or our) is proposing to amend our regulations related to Farm Credit System (System) bank and association disclosures to shareholders and investors. The proposed rule would exclude certain employees and their associated compensation amounts from the reporting requirement in our regulations. Under the proposed rule, there would be no reporting requirement for employees that are not senior officers and would not otherwise be considered "highly compensated employees" but for payments related to or change(s) in value of the employee's qualified pension plan. Under the proposed rule, such employees' pension plans must have been available to all similarly situated employees on the same basis.

DATES: Submit comments on or before [Insert date 30 days after the date of the publication in the Federal

Register].

ADDRESSES: We offer a variety of methods for you to submit your comments. For accuracy and efficiency reasons, we encourage commenters to submit comments by e-mail or through the FCA's Web site. As facsimiles (fax) are difficult for us to process and achieve compliance with section 508 of the Rehabilitation Act, we no longer accept comments submitted by fax. Regardless of the method you use, please do not submit your comment multiple times via different methods. You may submit comments by any of the following methods:

- E-mail: Send us an e-mail at reg-comm@fca.gov.
- FCA Web site: <http://www.fca.gov>. Select "Public Commenters," then "Public Comments," and follow the directions for "Submitting a Comment."
- Federal eRulemaking Portal: <http://www.regulations.gov>. Follow the instructions for submitting comments.
- Mail: Barry F. Mardock, Deputy Director, Office of Regulatory Policy, Farm Credit Administration, 1501 Farm Credit Drive, McLean, VA 22102-5090.

You may review copies of all comments we receive at our

office in McLean, Virginia, or from our Web site at <http://www.fca.gov>. Once you are on the Web site, select "Public Commenters," then "Public Comments," and follow the directions for "Reading Submitted Public Comments." We will show your comments as submitted, including any supporting data you provide, but for technical reasons we may omit items such as logos and special characters. Identifying information that you provide, such as phone numbers and addresses, will be publicly available. However, we will attempt to remove e-mail addresses to help reduce Internet spam.

FOR FURTHER INFORMATION CONTACT:

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Or

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SUPPLEMENTARY INFORMATION:

I. Objective

The objective of this proposed rule is to improve the quality of disclosure information shareholders receive that is related to senior officer and other highly compensated employee compensation.

II. Background

Congress explained in section 514 of the Farm Credit Banks and Associations Safety and Soundness Act of 1992 (1992 Act)¹ that disclosures of financial information and compensation paid to senior officers, among other disclosures, provide System shareholders with information necessary to better manage their institution and make informed decisions regarding the operation of their institution. In addition, the FCA Board declared its commitment to support the cooperative business model and structure by encouraging member-borrowers to participate in the management, control, and ownership of their institutions.² Providing member-borrowers with transparent and complete disclosures regarding the compensation of senior officers and certain other highly compensated employees is essential to fostering an environment wherein member-borrowers can do so effectively.

With this as one of our objectives, we issued a final rule on October 3, 2012, that enhanced disclosure of compensation and other related topics.

III. Analysis

¹ Pub. L. 102-552, 106 Stat. 4131 (1992).

² See FCA Policy Statement "Cooperative Operating Philosophy—Serving the Members of Farm Credit System Institutions" (FCA-PS-80), dated October 14, 2010.

Section 620.6(c)(2) requires System banks and associations to disclose the number of senior officers and their compensation for the last 3 completed fiscal years. For the purposes of this reporting requirement only, existing § 620.6(c)(2)(i) essentially extends the regulatory definition of "senior officers" to include any employee whose compensation level was among the five highest paid during the reporting period. The intent of this extension was to ensure that System banks and associations provide shareholders with necessary compensation information on highly compensated employees, even though such employees did not necessarily fall within the regulatory definition of "senior officer" during the reporting period.

On the other hand, the intent of this extension was not to have System banks and associations provide shareholders with compensation information regarding employees who would only reach the "highly compensated employee" threshold solely because of payments related to or change(s) in value of a qualified pension plan that was available to all employees on the same basis at the time they joined the plan. We believe that application of the existing rule could create such an unintended effect and reduce the effectiveness of the disclosure. For instance, the existing requirement could result in a mid-level employee being

considered a top five highest paid employees and thus being considered a "highly compensated employee" solely because of a one-time or lump sum pension payment that occurred at the end of their career. Such a result would necessarily cause an otherwise highly compensated employee who is not a "senior officer" to fall out of the top five highest compensated employees for that reporting period, and thus, to not be included in the disclosure required under § 620.6(c)(2)(i).

This proposed rule would improve the quality of the disclosure required under existing § 620.6(c)(2)(i) by eliminating the potential for unintended results such as the one outlined above. Therefore, we propose to amend § 620.6(c)(2)(i) to exclude any such employee from the Compensation Table if the employee would be considered highly compensated solely because of payments related to or change(s) in value of the employee's qualified pension plan provided that the plan was available to all similarly situated employees on the same basis at the time the employee joined the plan.

IV. Regulatory Flexibility Act

Pursuant to section 605(b) of the Regulatory Flexibility Act (5 U.S.C. 601 et seq.), the FCA hereby certifies that the proposed rule would not have a

significant economic impact on a substantial number of small entities. Each of the banks in the Farm Credit System, considered together with its affiliated associations, has assets and annual income in excess of the amounts that would qualify them as small entities. Therefore, Farm Credit System institutions are not "small entities" as defined in the Regulatory Flexibility Act.

List of Subjects in 12 CFR Part 620

Accounting, Agriculture, Banks, banking, Reporting and recordkeeping requirements, Rural areas.

For the reasons stated in the preamble, part 620 of chapter VI, title 12 of the Code of Federal Regulations is proposed to be amended as follows:

PART 620—DISCLOSURE TO SHAREHOLDERS

1. The authority citation for part 620 continues to read as follows:

Authority: Secs. 4.3, 4.3A, 4.19, 5.9, 5.19 of the Farm Credit Act (12 U.S.C. 2154, 2154a, 2207, 2243, 2252, 2254); sec. 424 of Pub. L. 100-233, 101 Stat. 1568, 1656, sec. 514 of Pub. L. 102-552, 106 Stat. 4102.

2. Section 620.6(c)(2)(i) is revised to read as follows:

§ 620.6 Disclosures in the annual report to shareholders

relating to directors and senior officers.

* * * * *

(c) * * *

(2) * * *

(i) If applicable, when any employee who is not a senior officer has annual compensation at a level that is among the five highest paid by the institution during the reporting period, include the highly compensated employee(s) in the aggregate number and amount of compensation reported in the Compensation Table. However, exclude any such employee from the Compensation Table if the employee would be considered highly compensated solely because of payments related to or change(s) in value of the employee's qualified pension plan provided that the plan was available to all similarly situated employees on the same basis at the time the employee joined the plan.

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Date: November 12, 2014 _____
Dale L. Aultman,
Secretary,
Farm Credit Administration Board.

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